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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,151	01/13/2005	Joachim Hasch	P27125	9119
7055 7590 08/29/2008 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER THOMAS, ALEXANDER S				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
08/29/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

### Office Action Summary

**Application No.**

10/521,151

**Applicant(s)**

HASCH ET AL.

**Examiner**

Alexander Thomas

**Art Unit**

1794

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4 and 7-23 is/are pending in the application.
- 4a) Of the above claim(s) 11-18, 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 7-10, 19, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. In view of the Appeal Brief filed on 5/27/08, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4, 7-10, 19, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima ('762) in view of Sean et al ('167) and either Rionda et al

4,486,115 or the European patent document 0481941. The primary reference discloses a building board comprising a plurality of wood boards 4 which are disposed side by side and bonded together in multiple layers wherein interspaces are provided between the boards, some of the interspaces may be filled with insulating material; see column 2, line 59 through column 3, line 9 and column 4, lines 39-43. The insulating material may be provided in the outermost layer (claim 22); see column 1, lines 47-55. However, the primary reference does not disclose the use of OSB boards. Sean et al disclose the structural equivalence of wood and OSB boards; see column 1, lines 16-20. It would have been obvious to one of ordinary skill in the art to use OSB boards as the wood boards 4 in the product of the primary reference in view of the teaching of equivalence in Sean et al. With respect to the nail plates, Rionda et al and the European patent document disclose the use of nail plates to join together two layers of material by placing the nail plate between respective layers; see Figure 7 and column 3, lines 52-63 of Rionda et al and the Figures and Abstract of the European patent document. It would have been obvious to one of ordinary skill in the art to use nail plates to bond together the layers of boards in the product of the primary reference in view of the teachings in Rionda et al and the European patent document to provide a joint that is stable and resistant to shear forces. Regarding the position of the nail plates between particular layers (claim 23), it would have been obvious to one of ordinary skill in the art to place the nail plates between a second layer and a third layer of the product of Nakajima in order to provide the joint between these layers with the above noted stability and resistance to shear forces. Concerning claim 2, the examiner takes official notice of the

fact that it is well-known in the laminate art to use mechanical means, such as screws, nails, etc. to attach together layers of material. Therefore it would have been obvious to one of ordinary skill in the art to use these well-known fastener means to attach together the layers in the product of the combined prior art to provide a secure bonding together of the layers. Concerning the claimed sizes of the materials, it would have been obvious to one of ordinary skill in the art to make the product of the primary reference using boards of any size since a change in size is generally recognized as being within the level of ordinary skill in the art (claims 7-10). Regarding the use of a plastic mat in the building board (claims 4 and 23), the reference discloses the placement of a fabric layer in his board; see column 4, lines 39-43. It would have been obvious to one of ordinary skill in the art to select any well-known material, such as plastic fabric, as the fabric layer in the product of the primary reference since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Concerning claim 23, Nakajima discloses that his "interposed material", i.e. the fabric layer, can be positioned "between at least two of the layers" dependent on its contemplated use; see column 2, lines 10-14. Therefore, it would have been obvious to one of ordinary skill in the art to place the fabric material between an outermost layer and a second layer in the product of Nakajima depending on the function of its contemplated use.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/  
Primary Examiner  
Art Unit 1794

/Rena L. Dye/  
Supervisory Patent Examiner, Art Unit 1794